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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/818,077	03/27/2001	Julie R. Bartholomew	1026-001	9777

25215 7590 08/14/2002

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EXAMINER

TRAN, KHOI H

ART UNIT

PAPER NUMBER

3651

DATE MAILED: 08/14/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/818,077

Applicant(s)

BARTHOLOMEW ET AL.

Examiner

Khoi H Tran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 28 July 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) 6 and 10-35 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 7-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 March 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2-4, 7.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Species I (figure 1), claims 1-10, 13-21, and 24 in Paper No. 9 is acknowledged.

In addition, Claims 6, 10, 13-21, and 24 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species II and/or species III, there being no allowable generic or linking claim.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the integration of the dispensing system, the camera, and the personal viewing station, into a single pod must be shown or the feature canceled from the claim 4. No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 5, 7, 8, and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Brown 5,903,465.

Brown '465 discloses a liquid cosmetic dispensing system per claimed invention comprising: a cosmetic dispensing system (figure 1); a computer 26 for interacting with a retail customer to select a liquid cosmetic formulation and communicating information about a selection for use in controlling said dispensing system. The dispensing system includes a plurality of chambers (figures 2 and 3) each having an outlet with a nozzle 10. The dispensing system is operated manually or automatically (column 3, lines 50-55).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-3, 5, 7-9 rejected under 35 U.S.C. 103(a) as being unpatentable over Brown 5,903,465 in view of Lombardi et al. 6,177,093.

Brown '465 discloses all elements per claimed invention as explained in paragraph 4 above. However it lacks a personal viewing station and a camera for interfacing with a customer in providing virtual feedback to a user.

Lombardi '093 discloses a customized cosmetic system at a point of sale. The system comprises a camera (70, figure 9) and computer (74) having a viewing screen (76). Said system provides virtual feed back as to how a customer would look with different colored cosmetic products (paragraph bridging columns 5 and 6). Such feature also enables a customer to modify a color that is best suited for each individual's preferences.

It would have been obvious for a person with ordinary skill in the art, at the time the invention was made, to have provided to Brown '465 customized cosmetic system with such camera and computer system, as taught by Lombardi '093, because it provides visual feed back as to how a customer would look with different colored cosmetic products. Such feature also enables a customer to modify a color that is best suited for each individual's preferences.

Conclusion

7. Additional references made of record and not relied upon are considered to be of interest to applicant's disclosure: see attached USPTO form 892.

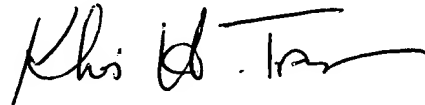
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khoi H Tran whose telephone number is (703) 308-1113. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Ellis can be reached on (703) 308-1113. The fax phone

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numbers for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and 7033057687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

A handwritten signature in black ink, appearing to read "Khoi H Tran". The signature is fluid and cursive, with a long horizontal stroke at the end.

Khoi H Tran
Examiner
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KHT
August 7, 2002